

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

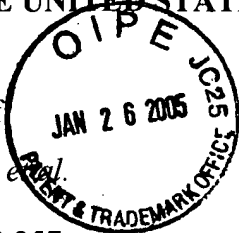
In re Application of

Philip W. MILLER et al.

Appln. No.: 09/692,257

Filed: October 19, 2000

For: Nucleic Acid Molecules and Other Molecules Associated with Plants



Confirmation No.: 7102

Art Unit: 1637

Examiner: Joyce Tung

Atty. Docket: 16517.297

**Petition to Revive Unintentionally Abandoned Patent Application  
under 37 C.F.R. § 1.137(b)**

***Attn: Mail Stop Petition***

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicants hereby petition for revival of the above-captioned application under 37 C.F.R. § 1.137(b). Authorization to charge the official fees for this petition is given in the accompanying transmittal letter.

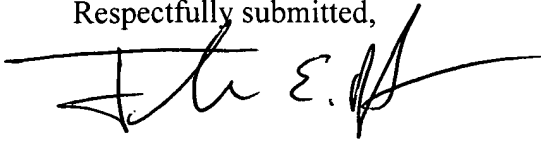
A final Office Action was mailed to Applicants on March 18, 2004, setting a six-month period for reply. An Amendment After Final Rejection and a Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences are included herewith.

In view of the above, Applicants assert that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional, and respectfully request that the application be revived.

In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned. Applicants do not believe that any fees, other than those provided for in the accompanying transmittal letter, are due in

conjunction with this filing. However, if any fees under 37 C.F.R. §§ 1.16 or 1.17 are required in the present application, including any fees for extensions of time, authorization is given in the accompanying transmittal letter to charge such fees to counsel's deposit account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "T. E. Holsten", with a long horizontal line extending to the right.

Date: January 26, 2005

Thomas E. Holsten (Reg. No. 46,098)  
David R. Marsh (Reg. No. 41,408)

Of Counsel:

Lawrence M. Lavin, Jr. (Reg. No. 30,768)  
Thomas E. Kelley (Reg. No. 29,938)

Arnold & Porter LLP  
555 Twelfth Street, N.W.  
Washington, DC 20004  
Tel: 202-942-5000  
Fax: 202-942-5999

Correspondence Address:

Monsanto Company  
Patent Department E2NA  
800 N. Lindbergh Boulevard  
St. Louis, Missouri 63167  
Tel: 314-694-1000  
Fax: 314-694-9009



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Confirmation No.: 7102

Philip W. MILLER *et al.*

Art Unit: 1637

Appl. No.: 09/692,257

Examiner: Joyce Tung

Filed: October 19, 2000

Atty. Docket: 16517.297

For: Nucleic Acid Molecules and Other Molecules Associated with Plants

**Notice of Appeal from the Examiner to the  
Board of Patent Appeals and Interferences**

**Mail Stop AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner mailed March 18, 2004, that resulted in Applicants having claims that have been twice or finally rejected.

Authorization to charge the official fee for this filing is given in the accompanying transmittal letter.

Respectfully submitted,

Thomas E. Holsten (Reg. No. 46,098)  
David R. Marsh (Reg. No. 41,408)

Date: January 26, 2005

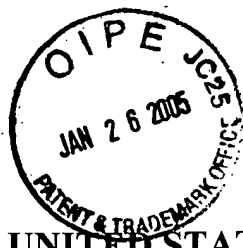
Of Counsel:

Lawrence M. Lavin, Jr. (Reg. No. 30,768)  
Thomas E. Kelley (Reg. No. 29,938)

Arnold & Porter LLP  
555 Twelfth Street, N.W.  
Washington, DC 20004  
Tel: 202-942-5000  
Fax: 202-942-5999

Correspondence Address:

Monsanto Company  
Patent Department E2NA  
800 N. Lindbergh Boulevard  
St. Louis, Missouri 63167  
Tel: 314-694-1000  
Fax: 314-694-9009



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

Philip W. MILLER *et al.*

Appln. No.: 09/692,257

Filed: October 19, 2000

Title: Nucleic Acid Molecules and Other Molecules Associated with Plants

Confirmation No.: 7102

Art Unit: 1637

Examiner: Joyce Tung

Atty. Docket: 16517.297/38-21(15771)B

**AMENDMENT AFTER FINAL REJECTION**

***Mail Stop AF***

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

In response to the Final Office Action mailed March 18, 2004 ("Final Action"), Applicants submit the following amendments and remarks.

**Amendments to the Claims** are reflected in the listing of claims that begins on page 2 of this paper.

**Remarks** begin on page 3 of this paper.

### IN THE CLAIMS

Please amend the claims as follows:

1. (Currently Amended) A substantially purified nucleic acid molecule that encodes a maize protein ~~or fragment thereof~~ comprising a nucleic acid sequence of SEQ ID NO: 1 or its complement.

2-7 (Cancelled)

8. (Previously Presented) A substantially purified nucleic acid molecule comprising a nucleic acid sequence of SEQ ID NO: 1 or its complement.

9. (Previously Presented) The substantially purified nucleic acid molecule according to claim 1, wherein said nucleic acid molecule consists of a nucleic acid sequence of SEQ ID NO: 1 or its complement.

10. (Previously Presented) A substantially purified first nucleic acid molecule comprising a fragment from about 50 to about 100 nucleotide residues, wherein said fragment exhibits complete complementarity to a second nucleic acid molecule having a nucleic acid sequence selected from the group consisting of SEQ ID NO: 1 and its complement.

11. (Previously Presented) The substantially purified first nucleic acid molecule according to claim 10, wherein said first nucleic acid molecule consists of said fragment.

12. (Previously Presented) The substantially purified first nucleic acid molecule according to claim 10, wherein said substantially purified nucleic acid molecule further comprises a region having a single nucleotide polymorphism.

13. (Previously Presented) A substantially purified nucleic acid molecule comprising a fragment nucleic acid molecule, wherein said fragment consists of about 50 to about 100 nucleotide residues of the nucleic acid molecule of SEQ ID NO: 1 or its complement.

### **Remarks**

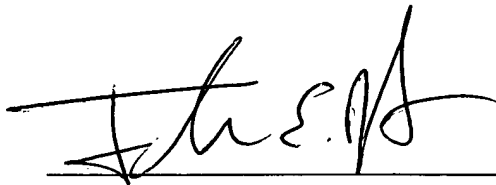
By this amendment, claim 1 has been amended. Following entry of the foregoing amendment claims 1 and 8-13 will be pending in the application. Support for the amended claim may be found throughout the specification and in the original claims. No new matter is added by these amendments.

The present Amendment clarifies issues on appeal and does not present new matter. Further, it is submitted that the present Amendment does not raise new issues requiring further search and consideration by the Examiner. As such, entry of the foregoing amendment is respectfully requested.

**Conclusion**

Applicants believe that the present Amendment is in proper condition for entry in this application. The Examiner is encouraged to contact the undersigned should any additional information be necessary.

Respectfully submitted,



Thomas E. Holsten (Reg. No. 46,098)  
David R. Marsh (Reg. No. 41,408)

Date: January 26, 2005

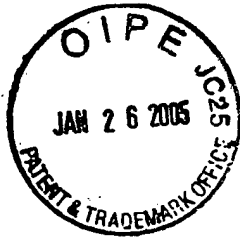
Of Counsel  
Lawrence M. Lavin, Jr. (Reg. No. 30,768)  
Thomas E. Kelley (Reg. No. 29,938)  
Monsanto Company

Correspondence Address:  
Monsanto Company  
Patent Department E2NA  
800 N. Lindbergh Boulevard  
Mailzone E2NA  
St. Louis, Missouri 63167

ARNOLD & PORTER LLP  
Attn: IP Docketing  
555 Twelfth Street, NW  
Washington, DC 20004-1206  
202.942.5000 telephone  
202.942.5999 facsimile



ARNOLD & PORTER LLP



January 26, 2005

Thomas E. Holsten  
Thomas\_Holsten@aporter.com

202.942.5085  
202.942.5999 Fax

555 Twelfth Street, NW  
Washington, DC 20004-1206

**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Art Unit: 1637  
Examiner: Joyce Tung  
Conf. No.: 7102

Re: U.S. Patent Application No. 09/692,257 filed October 19, 2000  
Inventors: Philip W. MILLER *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Atty. Dkt: 16517.297

Sir:

Transmitted herewith for appropriate action by the U.S. Patent and Trademark Office (PTO) are the following documents:

1. Petition to Revive Unintentionally Abandoned Patent Application under 37 C.F.R. § 1.137(b);
2. Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences;
3. Amendment After Final Rejection; and
4. Return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier.

Authorization is hereby given to charge \$2,000.00 (the statutory fee of \$1,500.00 for filing a Petition to Revive Unintentionally Abandoned Patent Application, and \$500.00 for filing a Notice of Appeal) to Arnold & Porter LLP Deposit Account No. 50-2387, referencing docket number 16517.297. A duplicate copy of this letter is enclosed.

In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned. Applicants do not believe any additional fees are due in conjunction with this filing. However, if any fees are required in the present application, including any fees for extensions of time, then the Commissioner is hereby

---

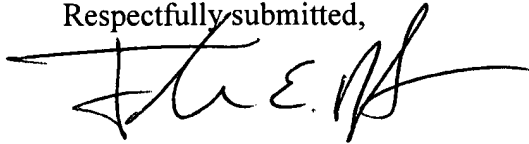
# ARNOLD & PORTER LLP

---

Commissioner for Patents  
January 26, 2005  
Page 2

authorized to charge such fees to Arnold & Porter LLP Deposit Account No. 50-2387,  
referencing docket number 16517.297.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "T. E. Holsten", with a long horizontal flourish extending to the right.

Thomas E. Holsten (Reg. No. 46,098)

Enclosures

>